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REMARKS**1. Claim Status**

After entering the claim amendments, claims 28 and 67-85 will be pending and under consideration. Claims 1-27 and 29-66 are canceled.

2. Claim Amendments

Claim 28 has been amended to stipulate that the modified ethylene vinyl alcohol polymer (EVOH) comprises the structures recited in claim 66 and that the blend comprises the quantity of modified EVOH recited in claim 29. Consequently, claims 29 and 66 have canceled. Claims 67, 69-70, 73-74, 76, 78, 81, 83 and 85 have been amended to maintain proper claim dependency. Applicants believe that no new matter has been introduced by the amendments to claims 28, 67, 69-70, 73-74, 76, 78, 81, 83 and 85 made herein.

Claim 77 has been amended to recite the proper skilled artisan recognized acronym for poly(ethylene vinyl alcohol) (EVOH). Support for the proper acronym for poly(ethylene vinyl alcohol) can be found throughout the specification (e.g. page 2, line 30). No new matter has been introduced by the amendment of claim 77 as "[a]n amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification, but also recognize the appropriate correction." MPEP § 2163.07 II.

3. Claim Rejections and Objections

Applicants thank the Examiner for the indication that claims 66-85 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Consequently, Applicants have amended claim 28 to stipulate that the modified ethylene vinyl alcohol polymer (EVOH) comprises the structures recited in claim 66. Additionally, in order to more distinctly state the subject matter which the applicants hold as their invention, Applicants have further amended claim 28 to stipulate that the blend comprises the quantity of modified EVOH recited in claim 29.

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Claims 28 and 29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Matthews et al., U.S. Patent 6,254,803 ("Matthews"). Specifically, the Office Action dated October 4, 2005, stated that the "use of ethylene/vinyl acetate is taught [in Matthews] and since ethylene/vinyl alcohol is similar to this and also similar to the modified ethylene/vinyl alcohol polymer being 'diluted', it would be prima facie obvious to one of ordinary skill in the art to use ethylene/vinyl alcohol copolymer as a diluent polymer." Applicants respectfully disagree with this statement. However, to advance prosecution, claim 28 has been amended to stipulate that the modified EVOH comprises the structures recited in claim 66.


In light of the claim amendments, and the indication that claim 66 would be allowable if written in independent form, the rejection of claims 28 and 29 under 35 U.S.C. § 103(a) over Matthews is moot. Applicants respectfully request that the 35 U.S.C. §103(a) rejection of pending claims over Matthews be withdrawn.

4. Final Remarks

In view of Office Action cited reference, claim amendments, and the remarks set forth herein, Applicants respectfully submit that pending claims 28 and 67-85 are in condition for allowance. The Examiner is invited to contact the undersigned patent attorney at (832) 813-4339 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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